Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No.

In the

Supreme Court of the United States

STEPHEN J DeBIASSE,

Petitioner,

v.

CHEVY CHASE BANK CORP.;
ZUCKER, GOLDBERG & ACKERMAN,
Counsel for Chevy Chase Bank Corp.;
SUPERIOR COURT OF NEW JERSEY,
CHANCERY DIVISION,
MORRIS COUNTY, NEW JERSEY;
MORRIS COUNTY SHERIFF DEPARTMENT,
Morris County, New Jersey;
SHERIFF ROCHFORD, Morris County Sheriff,
Morris County, New Jersey;
AND ALL PERSONS KNOWN AND UNKNOWN.

Respondents.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Third Circuit

PETITION FOR WRIT OF CERTIORARI

Stephen J. DeBiasse
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pro se Petitioner

QUESTIONS PRESENTED

Weather any State Court, Federal Court or any other State or Federal governmental agency has jurisdiction and authority to seize Treaty protected property by way of foreclosure judgment and sheriff sale levied upon said property in State Court. Where the owner of said property has secured valid Letters Patent, which are given full force and effect through the ratification of the Treaty of Paris in 1783:

1. Constitutes the State Court in question operating outside the bounds of its jurisdiction and authority?

2. Constitutes a Federal question with the Federal Courts having sole jurisdiction in the matter?

3. Constitutes a violation of Article VI, Clause two of the Constitution of the United States?

4. Constitutes Letters Patent, Land Grants and Land Patents being the highest title in Law and Equity and being unassailable?

LIST OF PARTIES

Stephen J. DeBiasse was the sole plaintiff before the United States District Court, District of New Jersey. Stephen J. DeBiasse was the sole Appellant before the United States Court of Appeals for the Third Circuit. Stephen J. DeBiasse is the sole Petitioner.

Respondents named in the caption are joined in their official capacities, and they, or their predecessors, were defendants before the United States District Court for the District of New Jersey and Appellees before the United States Court of Appeals for the Third Circuit.

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B. The Federal Courts are the proper jurisdiction for this matter and any other questions relating to treaty law and land patents. .. 6

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II. DIRECT CONFLICT EXISTS BETWEEN THE LOWER COURTS AND THIS COURT IN REGARDS TO THE ISSUENCE OF INJUNCTIVE RELIEF. 8

A. This Court historically has erred on the side of caution when irreparable harm and violation of due process are the possible consequences. 8

B. The established procedures for perfecting a patent or challenging a patent have always been set forth in this Court. 8

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OPINIONS BELOW

The opinion of the Third Circuit from which review is sought is reproduced at App. 2-5. The order of the U.S. District Court for the District of New Jersey is reproduced at App. 6.

STATEMENT OF JURISDICTION

The Supreme Court of the United States has jurisdiction to hear this case under Article III of the United States Constitution and has the power to grant *certiorari* under 28 U.S.C.§ 1254. The judgment sought to be reviewed was entered on August 4, 2005, by the U.S. Court of Appeals for the Third Circuit.

CONSTITUTIONAL PROVISIONS INVOLVED

Article III, Section two, Clause one of the United States Constitution states:

The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, *or* which shall be made, under their Authority…

U.S. Const. Article III.

Article VI, Clause two of the United States Constitution states:

> This Constitution, and the Laws of the United States which shall be made in Pursuance there of; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding.

U.S. Const. Article VI.

STATEMENT OF THE CASE

On March 28, 2005, Stephen J.DeBaisse brought a complaint [Civil Action No.05-CV-1681 (DMC)] in the United States District Court for the District of New Jersey against Chevy Chase Bank Corp.; Zucker, Goldberg & Ackerman; Superior Court of New Jersey, Chancery Division Morris County, New Jersey; Morris County Sheriff Dept.; Sheriff Rochford, Morris County Sheriff challenging the foreclosure judgment issued by the Superior Court of New Jersey, Morris County on January 25, 2005.

On April 8, 2005 The Hon. Dennis M. Cavanaugh, U.S.D.J. granted a hearing in the United States District Court for the District of New Jersey and dismissed the complaint for lack of jurisdiction. App. 6.

On May 4, 2005 Mr. DeBiasse filed Notice of Appeal to the U.S. Court of Appeals Third Circuit.

On May 10, 2005, Mr. DeBiasse filed a Motion for Emergent Injunctive Relief in the United States District Court for the District of New Jersey. On May 13, 2005 The Hon. Dennis M. Cavanaugh, U.S.D.J. denied the Motion for lack of jurisdiction. Also on May 10, 2005 a Motion for Emergent Injunctive Relief was filed in United States Court of Appeals for the Third Circuit.

On June 14, 2005 because of lack of action on the part of the Courts and the imminent Sheriff's Sale pending on the property located at 106 Shunpike Road. Mr. DeBiasse had no recourse, but to file a Chapter 13 bankruptcy action in Federal Court in Newark, New Jersey in order to prevent any further irreparable injury.

On June 23, 2005 Appellant filed a brief with the United States Court of Appeals for the Third Circuit. On August 4, 2005 the United States Court of Appeals for the Third Circuit filed a judgment, App.1, with an opinion, App. 2-5, affirming the lower Court and also denied the motion for emergency injunctive relief

Mr. DeBiasse's Petition for *Writ of Certiorari* follows.

STATEMENT OF FACTS

On February 23, 2004, a foreclosure action was filed in Superior Court of New Jersey, Chancery Division, Morris County. Prior to that date Mr. DeBiasse had been in constant contact with Chevy Chase Bank Corp. in an effort to resolve the mortgage deficiency and work out a payment plan to get the mortgage current. In the middle of working out payment arrangements Chevy Chase Bank Corp. filed a foreclosure action in Superior Court.

On April 1, 2004 Mr. DeBiasse drafted, signed and mailed to Chevy Chase Bank Corp. a Promissory Note for the sum of the full balance owed on the mortgage note at 106 Shunpike Road in Madison, New Jersey, App. 8 After receiving Mr. DeBiasse's Promissory Note Chevy Chase Bank Corp. returned the Note to him with a letter saying that it was of no legal or equitable value. Foreclosure proceedings continued unabated despite Mr. DeBiasse's efforts to the contrary.

Prior to and during the time that a work out plan was being attempted Mr. DeBiasse was in the process of giving public notice of his "Assignee's Declaration Of Land Patent", App. 20-25, which was commenced on February 6th 2004 and continued for at least 60 days unabated until April 23rd 2004.

Public notice consists of displaying the Declaration Of Land Patent in a "public place" or "the pubic square" as it is historically referred to in common law jurisdictions. Also posting notice in the local newspaper for the vicinage in question for an eight week duration. As this petition is being drafted a copy of the Declaration still hangs on the bulletin board on the 4th floor of the County Administration and Records Building in Morristown, New Jersey. The first few weeks Mr. DeBiasse posted notice of his "Assignee's Declaration Of Land

Patent" a copy was also posted on the bulletin board, which was used to post pending Sheriff Sales of foreclosed properties in the Morris County Sheriff's Office on the 4th floor of the Washington Building, Morristown, New Jersey, until it was removed by the Sheriff, at which time, Mr. DeBiasse was told he could no longer legally post such a document.

On May 17, 2004 Mr. DeBiasse filed a copy of his "Assignee's Declaration Of Land Patent" with the Superior Court of New Jersey, Chancery Division, Morris County, App.7, and also send a copy to Chevy Chase Bank Corp. via their legal counsel Zucker, Goldberg & Ackerman.

Despite Mr. DeBiasse's best efforts to resolve the situation a default judgment was entered on January 25, 2005 in Superior Court, Chancery Division of Morris County.

REASONS FOR GRANTING THE WRIT

I. A DIRECT CONFLICT EXISTS BETWEEN THE THIRD CIRCUIT'S DECISION AND THE LETTERS PATENT JURISPRUDENCE OF THIS COURT AND THE COURTS OF APPEALS.

A This Court has held that lands granted by Letters Patent are immune to collateral attack, weather in the State or Federal Courts.

The Federal Courts have a long history of cases involving Letters Patent, Land Grants and Land Patents. This is evident by all the case law, which has been decided in this area since the Courts were first empowered by the Congress to convene. Before there was a Federal government or any State governments the American people developed a stable system of land ownership and transfer. The historical method of transferring land was through Letters Patent or Land Grants. This type of transfer imparted to the patentee a unique type of ownership referred to as 'allodial' "Held in absolute ownership, pertaining to an allodium.", Black's Law Dictionary, 7th Ed. 1999. In other words the patentee has 'sovereign' ownership of his land the same as the King in Common Law England. In *James v. Campbell*. 104 U.S. 356 (1881), this Court held that the government of the United States, as well as the citizen, is subject to the Constitution and when it grants a patent the grantee is entitled to it as a matter of right, and does not receive it as a matter of grace and favor.

The administration of the land system in the United States is vested in the Executive Department of the government, at first in the Treasury and now in the Interior Department. The American people, newly established sovereigns in this republic after the victory achieved during the Revolutionary War, became complete owners in their land, beholden to no lord or superior; sovereign freeholders in the land. These freeholders in the original thirteen states now held land allodially that they possessed before the war only feudally. This new and more

powerful title protected the sovereigns from unwarranted intrusions or attempted takings of their land, and more importantly it secured in them a right to own land absolutely in perpetuity. By definition, the word perpetuity means, "The state of continuing forever", Black's Law Dictionary, 7th Ed. 1999. In *United States v. Creek Nation*, 295 U.S. 103 (1935), this Court held patents from their inception were to effect a change of ownership and were the most accredited type of conveyance known to our law.

B. The Federal Courts are the proper jurisdiction for this matter and any other questions relating to treaty law and land patents.

The issue of Federal jurisdiction was addressed early in the Courts history and has been re-visited in *Ex-Parte Young* 209 U.S. 123 (1908), when Justice Peckham stated:

> "The question of jurisdiction, whether of the circuit court or of this court, is frequently a delicate matter to deal with, and it is especially so in this case, where the material and most important objection to the jurisdiction of the circuit court is the assertion that the suit is, in effect, against one of the states of the Union. It is a question, however, which we are called upon, and which it is our duty to decide. Under these circumstances, the language of Chief Justice Marshalin Cohen v. Virginia, 6 Wheat. 264-404, 5 L. ed. 257-291, is most apposite. In that case he said: 'It is most true that this court will not take jurisdiction if it should not; but it is equally true that it must take jurisdiction if it should. The judiciary cannot, as the legislature may, avoid a measure because it approaches the confines of the Constitution. We cannot pass it by because it is doubtful. With whatever doubts, with whatever difficulties, a case may be attended, we must decide it, if it be brought before us. We have no more right to decline the exercise of